

# **Minimum Criteria Temporary Rules**

**(State Funded Activities)**

## **Our Objective Today....**

### **EPPC approval of the Minimum Criteria Temporary Rules**

**If approved by EPPC, tomorrow's goal is.....**

**Presentation to full Board for approval of  
Temporary Rules to become effective on  
January 10, 2002**



## How did we get to this point...

- At the October Board meeting, the EPPC and the full Board approved the rules for publication in the *North Carolina Register* to begin the temporary rule making process
- Legislation required NCDOT to:
  - notify people on the mailing list
  - hold at least one public hearing (two held on November 20, 2001)
  - receive public comments for 30 days

## **Department of Administration (State Clearinghouse)**

- **At the same time, these rules were submitted to the State Environmental Clearinghouse for publication in the *Environmental Bulletin*.**
- **The Clearinghouse also has a 30 day comment period. Comments have been sent back to DOT for review.**
- **DOA approval of Minimum Criteria Rules are required before the permanent rule-making process can begin.**



# Summation of Comments Received

**Ref 02F.0102(1) :**

**Curb Cuts - Do Environmental Documentation (Lawrence): pg**

**Ref 02F.0102(8):**

**Highway or Railroad Modernization (DENR): pg**

- **work within rights of way**
- **endangered species**
- **resource agency consultation**

**Secondary and Indirect Impacts (Smith/Lawrence): pg**

- **existing facilities for today's condition**
- **segmentation**

# **Summation of Comments Received, cont'd**

**Ref 02F.0102(11) :**

**Outdoor Advertising (Smith): pg**

- **subject to NCEPA**

**Ref 02F.0102(12) :**

**Prior Consultation (DENR): pg**

- **to determine minimum criteria projects**

**Erosion Control / Snow and Ice Removal / Secondary Road**

**Paving (Smith): pg**

- **chemical controls**
- **EIS for secondary roads**



# **Summation of Comments Received, cont'd**

**Ref 02F.0102(15) :**

**New Two Lane Road {25 acres} (DENR/Lawrence/Smith): pg**

- **DENR request to delete statement**
- **segmentation**

**Ref 02F.0102(17) :**

**Construction of New Runways (DENR): pg**

- **runway lights**

**Ref 02F.0102(18 through 23) :**

**Noise Impact Issues, Cumulative and Indirect Impacts (Smith): pg**

- **abbreviated EA**

# **Section 02F.0103**

## **Exceptions to Minimum Criteria**

**02F.0103 Secretarial discretionary authority  
(Conservation Council)**

- **“shall” versus “may”**

**02F.0103(1) State Listed Species (DENR/Smith)**

- **include along with federal protected species**

**02F.0103(2) Include “finfish” (DENR)**



# NCDOT Staff Additions and Changes

- the term “railroad” or “railway” was added in several places to clarify that the rules also apply to rail projects {.0102 (5)(6)(7)(8) (12) and (18)}
- .0102 (8) and (15) were modified, as clarification, so a larger project would not be divided into several smaller minimum criteria projects to avoid preparing proper environmental documentation
- .0102 (9) modified to clarify pipes, culverts and bridges
- .0102(17) was reworded to make clear that the rule does not allow the construction of new runways
- two new categories were added to address additional environmental issues .0102 (28) and (29)

# **NCDOT Staff Additions and Changes, cont'd**

- **.0103(1) and (2) were amended in response to DOT staff, DENR and attorney for Rules Review Commission**

**With these changes, we have revised the Minimum Criteria Temporary Rules (dated 1/8/02) for Committee approval.**





## **Proposed Revision to Minimum Criteria Rules...**

**02F.0102(b) Additional actions at and below the threshold of activities at which NCEPA environmental documentation is required, not specifically listed under section (a) above, shall be minimum criteria activities, but only after the Department determines, through documentation, that the specific activity will have no adverse significant impact on the environment.**





## **Permanent Rule-Making Process**

- **Submit and publish Notice of Text in NC Register**
- **Hold public hearing**
- **Take public comments for 30 days**
- **Submit rules to Board**
- **Submit rules to Rules Review Commission (RRC)**
- **If approved, must wait for legislative action / inaction**